

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

**FILED**

**JAN 25 2019**

Clerk, U S District Court  
District Of Montana  
Billings

UNITED STATES OF AMERICA,

CR 18-126-BLG-SPW

Plaintiff,

vs.

**ORDER SETTING  
SENTENCING**

ARTIE LEWIS SMELLS, SR.,

Defendant.

Defendant entered his plea of guilty before U.S. Magistrate Judge Timothy J. Cavan in open court on January 10, 2019. United States Magistrate Judge Timothy J. Cavan entered Findings and Recommendation in this matter on January 10, 2019 (Doc. 19). No objections having been filed within fourteen days thereof,

IT IS HEREBY ORDERED that Judge Cavan's Findings and Recommendations (Doc. 19) are ADOPTED IN FULL;

Therefore,

IT IS HEREBY ORDERED that,

1. Sentencing is set for **Thursday, May 23, 2019 at 10:30 a.m.**, in the James F. Battin Courthouse, 2601 Second Avenue North, Billings, Montana.
2. The United States Probation Office shall conduct a presentence investigation and prepare a presentence report. Fed. R. Crim. P. 32(c), (d); 18 U.S.C. § 3552(a).

3. The probation officer shall disclose the completed report, except for recommendations of the probation officer as follows: **two copies** to counsel for Defendant, and **one copy** to counsel for the government on or before **April 8, 2019**. The probation officer shall not disclose any recommendation made or to be made to the Court.

4. If restitution is mandatory, the probation officer shall discuss a payment plan with Defendant and shall make recommendations to the Court concerning interest and a payment schedule.

5. Counsel shall attempt in good faith to resolve disputes over any material in the presentence report. Unresolved objections to be relied upon at sentencing shall be presented to the probation officer on or before **April 17, 2019**. U.S.S.G. § 6A1.2. **Any unresolved objections are expected to be included in the pre-sentence report, not in a sentencing memorandum.**

6. The presentence report, in final form, including any unresolved objections, shall be delivered to the Court and the parties on or before **May 1, 2019**.

7. Sentencing memoranda and supporting documents addressing all relevant sentencing issues shall be filed on or before **May 8, 2019**. Absent good cause shown, sentencing memoranda and supporting documents filed after May 8,

2019 will not be considered in addressing sentencing issues. Failure to timely file sentencing memoranda may result in imposition of sanctions against counsel.

8. Responses to sentencing memoranda shall be filed on or before **May 15, 2019.**

9. Reply briefs will not be accepted for filing in sentencing matters.


10. The Court will resolve objections included in the Addendum to the presentence report at the sentencing hearing in accordance with U.S.S.G. § 6A1.3.

11. All parties that intend to have witnesses testify at sentencing shall give notice to this Court ten (10) days prior to the sentencing date.

12. Defendant is to remain in the custody of U.S. Marshals pending sentencing.

The clerk shall promptly notify counsel and the probation office of the entry of this Order.

DATED this 25<sup>th</sup> day of January, 2019.

  
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SUSAN P. WATTERS  
United States District Judge